

UNIVERSITY OF SANTO TOMAS, PETITIONER, VS. HON. BALTAZAR VILLANUEVA AS JUDGE OF THE COURT OF INDUSTRIAL RELATIONS, U.S.T. EMPLOYEES AND LABORERS ASSOCIATION (FFW), ET AL., RESPO...*G. R. No. 13748. October 30, 1959*

Ponente: GUTIERREZ DAVID, J.

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Petition for a writ of prohibition to restrain the respondent Judge of the Court of Industrial Relations from further proceeding in the action for unfair labor practice pending in that court on the ground of lack of jurisdiction.

The action in question was commenced by the respondent U.S.T. Employees and Laborers Association (FFW) on October 7, 1957 when it filed with the Court of Industrial Relations a charge for unfair labor practice against the University of Santo Tomas, herein petitioner. After the preliminary investigation, an acting prosecutor of the Industrial Court filed in that court a complaint for unfair labor practice against the petitioner University of Santo Tomas, alleging, among other things, that the complaining members of the respondent union, who had declared a strike on February 24, 1956, had offered to return to work on October 3 of that same year but that the petitioner refused to admit them.

Instead of answering the complaint, the petitioner, on November 11, 1957, filed a motion to dismiss, alleging that the action was barred by prior judgment of the Court of First Instance of Manila in Civil Case No. 28870 entitled "University of Santo Tomas, Petitioner, vs. UST Employees and Laborers Association, Respondent"; that the complaint did not state any cause of action; that there was another action pending in the Court of First Instance of Manila (Civil Case No. 29122) between the same parties, involving the same facts upon which the charge for unfair labor practice was based; that the legality of the respondent union as a labor organization was at issue in Civil Case No. 29122 and its determination constituted a prejudicial question; that the Industrial Court had no jurisdiction over the case and the respondent union was estopped from denying that fact; and that the action was barred by laches. In support of its motion to dismiss, petitioner submitted to the court certified true copies of the following documents: the decision of the Court of First Instance of Manila in Civil Case No. 28870; the complaint in Civil Case No. 29122 of the same court and the answer thereto; and the constitution and by-laws of the respondent union dated September 26, 1953 as well as their revised edition dated September 4, 1955.

On January 9, 1958, almost two months after the filing of the motion to dismiss, petitioner received a copy of an unverified "Opposition to Motion to Dismiss", signed, by the acting prosecutor of the Industrial Court, alleging, among other things, that the decision of the Court of First Instance was not binding upon the Court of Industrial Relations, since, as already held by that court, "the criterion in determining jurisdiction in any unfair labor practice case in any enterprise be it industrial or non-industrial is the existence of employer-employee relationship."

On January 30, the motion to dismiss was heard. At that hearing the petitioner stressed its argument that the

Industrial Court, following the decisions of this Court in similar cases, lacked jurisdiction over the case inasmuch as it is an educational, and semi-religious institution not organized for profit. But on March 6, 1958, the respondent trial judge, being of the opinion that the issues raised by the motion to dismiss "necessitate findings of facts", resolved to defer action thereon until after the final decision of the case. For that reason, the trial judge instructed the clerk of court to calendar the case for immediate hearing. Motion for reconsideration—which is considered an appeal—having been denied by the court in banc on the ground that the resolution sought to be reconsidered was interlocutory in nature, the petitioner filed the present petition for prohibition, alleging as a principal ground that it is an educational institution not organized for profit and therefore does not fall within the jurisdiction of the Court of Industrial Relations.

Answering the petition, the respondent labor union maintains that the respondent trial judge did not commit any error or grave abuse of discretion in deferring resolution of the motion to dismiss until the trial as he is empowered to do so when the ground alleged therein is not indubitable; that appeal in due time was the proper remedy; that the petitioner although an educational institution is not a non-profit organization; and that assuming that it is a non-profit organization, it is still an employer under Republic Act No. 875 and therefore any of its acts which may be considered unfair labor practice falls under' the exclusive jurisdiction of the Industrial court.

We find the petition to be meritorious.

While it is true that action on a motion to dismiss may be deferred until the trial and an order to that effect is interlocutory, still where it clearly appears that the trial judge or court is proceeding in excess or outside of its jurisdiction, the remedy of prohibition would lie since it would be useless and a waste of time to go ahead the proceedings. (Philippines International Fair, Inc., et al., vs. Ibanez, et al., 94 Phil, 424; 50 Off. Gaz., 1036; Enrique vs. Macadaeg et al., 84 Phil.; 674; 47 Off. Gaz., 120T; see also Sail Bida College vsi CIR, 97 Phil., 787; 51 Off. Gaz., 5636,).

In the present case, the record reveals that the petitioner University of Santo Tomas is not an industry organized for profit but an institution of learning devoted exclusively to the education of the youth. The court of First Instance of Manila in its decision in Civil Case No. 28870, which has long become final and consequently the settled law in the case, found as established by the evidence adduced by the parties therein (herein petitioner and respondent labor union) that while the University collects fees from its students, all its income is used for the improvement and enlargement of the institution. The University declares no dividend, and the members of the corporation who founded it, as ordained in its articles of incorporation, receive no material compensation for the time and sacrifice they render to the University and its students. The respondent union itself in a case before the Industrial Court (case No. 314-MC) has averred that "the University of Sto. Tomas, like the San Bida College, is an educational institution operated not for profit but for the sole purpose of educating young men." (See Annex "B" to petitioner's motion to dismiss.) It is apparent, therefore, that on the face of the record the University of Santo Tomas is not a corporation created for profit but an educational institution and therefore not an industrial or business organization. In the case of Boy Scout of the Philippines vs. Araos (102 Phil., 1080, promulgated January 29, 1958), this court held that—

* * * our labor legislation from Commonwealth Act No. 103, creating the court of Industrial Relations down through the Eight Hour Labor Law, to the Industrial Peace Act, was intended by the Legislature to apply only to industrial employment and to govern the relations between employers engaged in industry and occupations for purposes of profit and gain, and their industrial employees, but not to organizations and entities which are organized, operated, and maintained not for profit or gain, but for elevated and lofty purposes, such as, charity, social service, education and instruction, hospital and medical service, the encouragement and promotion of character, patriotism and kindred virtues in the youth of the nation, etc.

"In conclusion, we find and hold that Rep. Act No. 875, particularly, that portion thereof, regarding labor disputes and unfair labor practice, does not apply to the Boy Scouts of the Philippines, and consequently, the court of Industrial Relations had no jurisdiction to entertain and decide the action or petition filed by respondent Araos. * * *."

The above ruling has been reiterated in *University of San Agustin vs. CIR* (103 Phil, 926; 56 Off. Gaz., 70), *Elks Club, etc. vs. United Laborers & Employees of the Elks Club* (105 Phil., 204), and *Cebu Chinese High School et al., vs. Philippine Land-Air-Sea Labor Union (PLASLU) et al.*, (G. R. No. L-12015, April 22, 1959). (See also *UST Hospital Employees Association vs. Sto. Tomas University Hospital*, (95 Phil., 40), *San Beda College vs. CIR, et al.*, (97 Phil., 787;; 51 Off. Gaz., 5636), *Quezon Institute, et al., vs. Velasco*, (97 Phil., 905; 51 Off. Gaz., 6175), *Marcelo vs. Philippine National Red Cross*, 101 Phil., 544.)

Conformably to the above, this Court holds that the Court of Industrial Relations has no jurisdiction to hear and determine the complaint for unfair labor practice filed against the petitioner.

Wherefore, the petition for a writ of prohibition is granted. The order of the respondent Judge complained of is set aside and the complaint for unfair labor practice against the petitioner is dismissed, with costs against respondents other than the respondent trial judge.

Paras, C. J., Bengzon, Padilla, Montemayor, Bautista Angelo, Labrador, and Endencia, JJ., concur.

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